

# VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

## CHAPTER 294

*An Act to amend and reenact § 58.1-439.6 of the Code of Virginia, relating to the worker retraining tax credit.*

[H 1923]

Approved March 13, 2013

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-439.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.6. Worker retraining tax credit.**

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Virginia Apprenticeship Council.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

*"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the Department of Business Assistance in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.*

B. For taxable years beginning on and after January 1, 1999, *but prior to January 1, 2018*, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of this title in an amount equal to thirty percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, *for taxable years beginning prior to January 1, 2013*, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually. *For taxable years beginning on or after January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline including but not limited to industry-recognized credentials, certificates, and certifications.* The total amount of tax credits granted to employers under this section for each fiscal year shall not exceed \$2,500,000.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. An employer shall be entitled to the credit granted under this section only for those courses at a community college or a private school which courses have been certified as eligible worker retraining to the Department of Taxation by the Department of Business Assistance. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. The Department of Business Assistance shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining *and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.*

E. Any credit not usable for the taxable year may be carried over for the next three taxable years.

The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer shall be eligible to claim a credit under this section for worker retraining undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The Director of the Department of Business Assistance shall report annually to the chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.